

## 2 MILES OF N. Y. CITY RAILWAY

A \$15,000 FRANCHISE IS ALL THAT IT OWNS UPRIGHT.

Brought Out Also at Trial of Jackson's Suit That the Metropolitan Realty Co. Proceeds of the \$23,000,000 Loan Are Not Expected to Testify To-day.

The trial of Attorney-General Jackson's suit for the annulment of the charter of the New York City Railway Company was continued yesterday before Justice Davies in Special Term, Part IV., of the Supreme Court. The day was devoted to the examination of Edward C. Moorehead, secretary and treasurer of the company; H. W. Browne, the general auditor of the corporation; and Henry W. Sayre, who was formerly a director of the company.

Mr. Moorehead was questioned by Lawyer Limburg, who appears as the special assistant of the Attorney-General, concerning his knowledge of the company's books and affairs. He explained that his knowledge was derived solely from what the general auditor, Browne, had told him. He was excused in favor of Auditor Browne.

Mr. Browne was asked to explain a number of bookkeeping entries regarding the use of \$100,000 in debentures which the New York City Railway Company had issued at 70 and subsequently redeemed at 100 and then issued again at 70, showing a profit of \$1,500,000 cash. Paul D. Cravath, counsel for the railroad, repeated his admission that the entries concerning the debentures were misleading and that the books failed to show a cash loss of \$4,500,000.

Mr. Limburg got Browne to admit, with Mr. Cravath's acquiescence, that the company owned outright by the New York City Railway Company, a \$20,000,000 corporation, was the so-called "Halsey" franchise, for 20 miles of track in the Bronx, bought up from the defunct Interurban Railway Company in 1902 for \$15,000.

Subsequent questions relating to the organization of the Metropolitan Securities Corporation, which was formed through the City Railway, \$23,000,000 in cash to the Metropolitan Street Railway Company, brought out cancelled checks, produced by Mr. Cravath, that the company's \$23,000,000 had actually been turned over.

Filled in his attempt to show that the money had not been paid over in full, Lawyer Limburg returned to an attack on the City Railway company's report to the State Railroad Commissioners in 1906. He questioned Mr. Browne closely as to the allowance made for yearly depreciation on the stock of the company, which was \$1,000,000. Mr. Browne maintained that a proper entry was always made for such depreciation and that if it appeared small the reason was that the stock purchased was of such good quality that no great allowance was necessary until after the third year of use.

Mr. Limburg asked the witness to explain the item of \$1,000,000 in the yearly report for "renewal of horses."

Mr. Browne explained that under its own statistical tables the company figured the wearing life of a horse to be three years, and that for the purposes of bookkeeping three-quarters of the purchase value of the horses owned by the company was "earned" as an asset every year. Similarly, he explained the item of \$1,000,000 for "renewal of horses," which was distributed over each year in equal proportion.

Mr. Limburg asked Mr. Browne whether an auditor of the company was prepared to say that the company was or was not solvent on September 30, 1907. Mr. Cravath objected to the question and it was ruled that the witness could not answer it. Justice Davies upheld an objection by Limburg to a question by Mr. Cravath concerning the market value of the securities owned by the New York City Railway Company on June 30, 1906.

Mr. Limburg pointed out that this was not a fair test of the value of certain stocks, since, at that date, Third Avenue stock, for example, was very inactive, and the company held a block of 45,000 shares. What would have been realized by a sale at that date of such a block of inactive stock it was impossible to say.

Mr. Cravath subsequently objected to the introduction by Limburg of testimony concerning the unpaid franchise taxes of the company for the years 1906 and 1907. In 1906, Limburg remarked that the guarantee of the company that it would pay these taxes was sufficient evidence of its indebtedness, but Mr. Cravath maintained that the taxes were to be passed upon by a Supreme Court referee, and that until such a referee had rendered his decision the taxes, which are disputed, were not due. Justice Davies said that he would reserve decision on this point.

A great many questions were put to Henry W. Sayre concerning the company's financial condition, but Justice Davies sustained objections to most of them, and Mr. Limburg was driven to ask Mr. Sayre how many shares were there for the \$23,000,000 loan.

Mr. Sayre was about to reply that he didn't know, when Lawyer Cravath interrupted to say that District Attorney Jones had asked that the witness be excused, and that they were produced for Mr. Limburg's inspection. The trial was then adjourned till today.

STATE RECEIVERS TOLD TO WAIT A BIT.

Judge Lacombe has dismissed the petition of Messrs. Fuller, Dougherty and Fallis, the receivers appointed by the State for the Metropolitan and New York City Railway Companies, asking the court to direct the Federal receivers to turn over the property of the two corporations to them. The court says that the petition was prematurely presented and that the Federal receivers are so advised by the court.

Seven thousand claims against the Metropolitan Street Railway Company for damages for failure to give transfers are being divided by Judge Lacombe yesterday into three classes and will be sent to separate masters for liquidation. Actions arising prior to 1905 are one group; those of 1905 and after are the second. Judge Lacombe says of the earlier cases: "These may be called 'old' actions, which for some reason have become stranded, presumably in many cases because the attorneys having them in charge have but little expectation of success. It is unreasonable to suppose that meritorious actions of action in which a claimant has a good case should be allowed to slumber. The actions for accidents begun in 1905 could also have been tried long before now, but plaintiffs have been remiss in not diligent. The State is not in the habit of making a plaintiff the right to try his case promptly because of any dilatory conduct on the part of a defendant corporation."

New United States Rubber Notes.

The First National Bank and Blair & Co. are bringing out \$8,000,000 5 per cent. eight-month notes of the United States Rubber Company. The notes will be issued to retire the same amount of 5 per cent. notes maturing March 15. The company has \$3,000,000 cash on hand and quick assets in excess of \$10,000,000. The directors considered it advisable in view of the present depressed business conditions, not to reduce the amount of notes outstanding. The notes will be offered to investors at 97 1/2, a 1 per cent. discount. With them goes a guarantee that the company will not place them before any prior lien, that it will maintain quick assets of at least \$15,000,000 and run up no floating indebtedness. The notes are secured by \$12,000,000 of subsidiary companies, the same security as that behind the notes they are to replace.

Court Can't Review What Costa Rica Did.

Judge Hough of the United States District Court holds that the American Banana Company cannot recover damages against the United Fruit Company for the seizure of plaintiff's land by Costa Rica at the alleged instigation of the defendant. This, he says, was the act of a sovereign State not reviewable in our courts. He leaves in the pending case on the basis of proceedings for a penalty under the Sherman law the allegation that the defendant was a carrier discriminated against the plaintiff as competitor.

## GOSSIP OF WALL STREET.

"Too much Washington," said a prominent broker at noon yesterday, "that is the trouble with the market. Nearly all the talk is of what Washington has done, is doing or means to do. I have just looked through the news bulletins of one of the Wall Street news agencies and I find that of ten despatches from out of town points eight have their origin in Washington. The proportion may not always run as high as this, but my observation convinces me that we are obliged to take altogether too much of the news that affects our business from this city. I am certain people prominent at Washington need to be strongly opposed to combination and concentration in business, and yet they are in great measure responsible for the concentration as a single point of most of the news that affects the markets and through these acts an influence over the whole financial and commercial fabric of the country. A monopoly of stock market news is something I do not want to see."

About the middle of September, 1905, Union Pacific after a rise from the lowest point of the year settled down to the level of about 70 and remained there for weeks. No news, however good, could get the price above 72 or 73 and none could put it below about 69. The stock always looked heavy and the selling at all times appeared to be good. The traders made many efforts to break the price, but always failed, and it was the turning point, and tried to put it up they met with equally little success. Not until the following December did the price move from the established level, and then it advanced to points, really marking the beginning of the great rise that culminated three years later, when the stock sold at nearly double its face value. It is evident now in the light of the events of the last three years that when the stock appeared to be weak in the neighborhood of 70 accumulation of it must have been conducted on a large scale and there are a few very few traders who suspect that a similar operation is in progress now.

According to an apparently well founded report certificates of Union Pacific have recently been delivered in the names of dummies supposed to represent a prominent stockholder, former director and always regarded as one of the largest holders of the stocks of the Union Pacific Railroad. Those who have seen the certificates are at a loss for an explanation, and while most of them argue that the deliveries indicate that the market has been covered on a large scale, others of similar occurrences in the past take the view that the selling was probably done long ago and that the disclosure of its source implies, if rightly interpreted, that no more accumulation is to be apprehended from that quarter.

Next to Washington, Union Pacific forms the subject of most of the traders' discussions and appears to be the cause of about as much irritation. The majority of the trading element complain of the action of the stock, asserting with tireless monotony that it "keeps going down all the time." As a matter of fact, the stock has advanced since the beginning of its present level more than three weeks ago and has been lower since. On February 11 it sold at 113, divided on, and the lowest point this week has been 105, ex dividend. The stock has been bought at 113 three weeks ago and carried since on a two point stop order.

The fact that nearly every member of the trading fraternity says he cannot understand the strength in United States Steel does not necessarily imply that there is anything wrong with the market position of the stock. Had the steel been able to understand the strength of this security probably they would not have sold it short to the extent to which they are still short of it.

Among the bulls on Amalgamated Copper little uneasiness was expressed over the reported decline in the price of the metal, the ground being taken that the easier conditions in the metal market resulted from the selling by speculators who feared that the reopening of the mines would spoil the market for what they had to sell. It was expected, the bulls on the stock say, that the resumption of the mining at Butte would have just that effect temporarily and that the stock too there would be realizing on the publication of the news. Both these contingencies and the reduction of the dividend on Calumet and Hecla were, it is asserted, ruled out by the market movement in Amalgamated was undertaken.

Repeated failure of their attempts to depress the market is beginning to tell on the nerves of the bears. They have not reduced the tone of their pessimism on the contrary they have become desperate in their predictions of calamitous occurrences. As one broker says: "They have been offered heavy guns and wasting their ammunition without even being sure whether they are beleaguering by a real substantial force or by a phantom. In fact it is the doubt which they have on this point that threatens their financial position. They feel that there is danger in the air but do not know what it is or how to combat it."

Two rumors that were hardly calculated to add to the comfort of the bears were circulated during the afternoon. One of these was to the effect that the Knickerbocker Trust Company would cooperate in the stock market and the other asserted that the Hecla bill to restrain speculation would be withdrawn.

The bears made no effort to combat the first of these stories, but in regard to the latter they said that what was intended by those who had been for the reduction of the proposed tax on transfers of stock from \$50 to \$20 on each 100 shares of a par value of \$100. Even the latter rate would, of course, seriously restrict speculation and the bears who knew that the tax was to be passed with no chance of ever becoming law tried to make it helpful to their position by asserting that with a modification it would still go on the statute books of the United States.

A broker of long experience on the Stock Exchange says he has never yet been able to determine where speculation ends and investment begins. "I know," he said, "that what a railroad makes an issue of, \$20,000,000 of new securities and only \$2,000,000 are sold at the public offering, making it necessary to place the rest with a syndicate, the buying of the small amount is investment and the buying by the syndicate is speculation. I know, too, that an insurance company every time it writes a life policy is speculating on something that is about as uncertain as anything could well be—the duration of human life; yet I know that the insurance of human life is the most certain business in the world because stability is given to it by the extent of the speculation. I do not know, but I think that the safety of banking business is insured by the stability given to collateral by the extent of speculation in the stock markets. I am willing to remain in doubt on the point that to see any experiments tried that would change these possibilities."

FINANCIAL NOTES.

The directors of the Columbia Trust Company have elected as president Willard V. King, vice-president of the New York Trust Company, to succeed Robert S. Bradley. Mr. Bradley is the director.

The directors of the Barney & Smith Car Company have passed the quarterly dividend on the common stock. The company is paying at the rate of 4 per cent. annually since September, 1907. The regular quarterly dividend of 1 per cent. was declared last September.

The governors of the Consolidated Stock Exchange yesterday passed resolutions of regret on the death of Hubert H. Hubert, secretary of the exchange for twenty-two years.

YUCATAN BANKS COMBINE.

Deal to Establish Sixteen Million Concern Endorsed by Stockholders.

MEXICO CITY, March 4.—The stockholders of the Mercantile Bank of Yucatan have accepted the proposition to merge that institution with the Banco Yucateco. The new company being organized with a capital stock of \$16,000,000 to operate the combined business of the two banks. It is located at Merida.

## ORIENTAL PLAN MODIFIED

SO THAT IT KEEPS DOWN THE EXPENSE TO STOCKHOLDERS.

But the Essential Features, Including the Payment of Depositors in Full at Once, Are Not to Be Altered—Chances Appear to Be Pretty Good for an Agreement.

A modified form of the agreement between the Oriental Bank directors and the Metropolitan Trust Company will be submitted to the Attorney-General to-day for his approval. It is understood that the depositors' committee, through its counsel, Samuel Untermyer and David McClure, took an hour yesterday and that as a result an effort will be made to meet some of the Attorney-General's objections to the original agreement.

A long conference was held between lawyers representing the depositors and S. S. Menken and C. K. Bookman of counsel to the Oriental directors, and afterward word was sent to the Attorney-General that the modified proposition would be laid before him by noon to-day. The order directing the Attorney-General to show cause why the receivership should not be vacated is returnable to-day before Justice O'Gorman, but it is likely that an extension of time will be sought by both parties.

The modified agreement, it is understood, will provide in certain terms for the immediate payment of the depositors in full by the Metropolitan Trust Company. The latter will probably be some provision for the setting aside of the necessary amount by the trust company, but not necessarily in some other institution, as the Attorney-General has suggested. Mr. Jackson reiterated yesterday his willingness to ask the Court to vacate the receivership if the full amount owing to the depositors is put up by the trust company in some other institution.

There is reason to believe, however, that the Metropolitan Trust Company will not accede to this proposition of putting the money in another institution. Under the original plan the trust company expected that many of the Oriental's depositors would transfer their accounts to the trust company and thus that the settlement of the accounts would be more or less a book-keeping transaction. With the full amount of the deposits in another institution this expectation might be interfered with. One of Mr. Jackson's receivers is another trust company.

Under the modified plan the Metropolitan Trust will receive a commission of 10 per cent. besides 6 per cent. interest on all moneys advanced. The amount which may be expended for counsel fees, salaries and clerk hire will, however, be limited. It is likely also that Mr. Jackson's objection to the absolute power of the liquidating committee under the first agreement will be met. The directors of the Oriental Bank have issued a formal statement yesterday in reply to the Attorney-General's broadcast of Tuesday night. The statement declares that the Attorney-General insists on throwing the bank into the hands of a permanent receiver there will be a great loss to the East Side depositors at the Bowery branch.

"Thousands and thousands of dollars," says the statement, "will be lost to poor shopkeepers and working people on the East Side, who would be obliged to go to the bank to get their money. It is only 30 per cent. of their deposits." "The Attorney-General's duty is solely to protect the depositors and other creditors. There is no, a single suggestion, that he should attempt to do this by a plan that he will not be accomplished, but he merely attempts to befog the issue by making baseless charges that the expenses that he necessarily be involved are extraordinary."

"Under the plan there will be no expense to the depositors, directly or indirectly, the matter of expenses, therefore, concerns the stockholders only and has been duly passed upon by 70 per cent. of said stockholders and approved by them. If the arrangement with the Metropolitan Trust Company is carried out, the Oriental Bank will receive, it is expected, at least 150 for their stock. The directors and stockholders had for their main purpose the immediate payment of the depositors and they are appreciative of the duty owed by them to the latter."

COPPER DIVIDENDS CUT.

Calumet and Hecla Pay 55 Cents Instead of \$1.00 This Quarter.

The directors of the Calumet and Hecla Mining Company made another reduction yesterday in the company's quarterly dividend—this time from \$1.00 to 55 cents. The news came as a surprise and Calumet sold down to 50 on the Boston Stock Exchange, a net loss for the day of 80 points. The quarterly dividend three months ago was \$1.00; six months ago it was \$1.00, and the two preceding dividends were made at the rate of \$2.00 a share.

The reduction was made by the directors, it is said, as a conservative step in view of the unsettled condition of the copper market and the low price of copper. The company has very little copper on hand, it is understood, but has not been in the market with its product since the price of the metal went below 13 cents. A director said:

"The reduction in our dividend to-day was purely a matter of conservatism. We have very little copper on hand, and yet the sale of it is slow. I do not care to predict what the future course of the market will be, but I am certain of one thing, and that is that copper cannot be produced in this country in sufficient quantities at 13 cents a pound to satisfy the demand."

Another company to reduce its dividend yesterday was the Wolverine Mining Company. The directors declared a quarterly dividend of \$5 a share, as compared with \$7.50 the preceding quarter and \$30 a year ago.

MISCELLANEOUS MARKETS.

Coffee Dull—Provisions Easier.

Trading in coffee came almost to a standstill. Total transactions were reported to be small. Needless to say, too, the market lacked features of interest. The European markets showed trifling changes and no advices were received from Brazil owing to a holiday. Some movement was noted in the spot market in an absence of offerings. The spot market was steady. The warehouse deliveries were 19,067 bags and 14,554 on the previous day and 15,307 last year.

Spot coffee steady. Futures—Chicago—No. 1, 15 1/2; No. 2, 15 1/4; No. 3, 15 1/8; No. 4, 15 1/8; No. 5, 15 1/8; No. 6, 15 1/8; No. 7, 15 1/8; No. 8, 15 1/8; No. 9, 15 1/8; No. 10, 15 1/8; No. 11, 15 1/8; No. 12, 15 1/8; No. 13, 15 1/8; No. 14, 15 1/8; No. 15, 15 1/8; No. 16, 15 1/8; No. 17, 15 1/8; No. 18, 15 1/8; No. 19, 15 1/8; No. 20, 15 1/8; No. 21, 15 1/8; No. 22, 15 1/8; No. 23, 15 1/8; No. 24, 15 1/8; No. 25, 15 1/8; No. 26, 15 1/8; No. 27, 15 1/8; No. 28, 15 1/8; No. 29, 15 1/8; No. 30, 15 1/8; No. 31, 15 1/8; No. 32, 15 1/8; No. 33, 15 1/8; No. 34, 15 1/8; No. 35, 15 1/8; No. 36, 15 1/8; No. 37, 15 1/8; No. 38, 15 1/8; No. 39, 15 1/8; No. 40, 15 1/8; No. 41, 15 1/8; No. 42, 15 1/8; No. 43, 15 1/8; No. 44, 15 1/8; No. 45, 15 1/8; No. 46, 15 1/8; No. 47, 15 1/8; No. 48, 15 1/8; No. 49, 15 1/8; No. 50, 15 1/8; No. 51, 15 1/8; No. 52, 15 1/8; No. 53, 15 1/8; No. 54, 15 1/8; No. 55, 15 1/8; No. 56, 15 1/8; No. 57, 15 1/8; No. 58, 15 1/8; No. 59, 15 1/8; No. 60, 15 1/8; No. 61, 15 1/8; No. 62, 15 1/8; No. 63, 15 1/8; 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